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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,243	03/14/2001	Reiji Misawa	35.C15210	1308
5514	7590	12/12/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO			THOMPSON, JAMES A	
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NEW YORK, NY 10112			PAPER NUMBER	

2624

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/805,243

Applicant(s)

MISAWA, REIJI

Examiner

James A. Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments, see page 7, lines 7-14, filed 21 September 2005, with respect to the specification have been fully considered and are persuasive. The remarks regarding the specification in item 4 of the previous office action, dated 06 June 2005 have been withdrawn.

2. Applicant's arguments filed 21 September 2005 have been fully considered but they are not persuasive.

Regarding page 7, line 15 to page 10, line 16: While Murayama '506 (US Patent 5,978,506) may be directed to a different purpose than the present application, it is sufficient that the relevant teachings are provided by Murayama '506, as set forth on page 5, lines 3-11 of said previous office action, along with a showing that the references are within the same field of endeavor, a showing of the manner in which Murayama '506 is combined with Nakamura (US Patent 5,889,928), thus demonstrating a reasonable expectation of success, and a showing that the adequate motivation to combine is provided in the Murayama '506 reference, as set forth on page 5, lines 12-23 of said previous office action. While Applicant may have a different purpose for the present application, this in no way contradicts the fact that one of ordinary skill in the art at the time of the invention would have been motivated to combine the references as set forth on pages 3-6 of said previous office action, thus obtaining by combination the claimed invention. Furthermore, though Murayama '506 has color balancing as its primary purpose, color balancing is not the only teaching that

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is present within the disclosure of Murayama '506. Other teachings are clearly present within Murayama '506 that may be relied upon to teach the presently recited claims.

Applicant further states that the "reference also does not describe the relative benefits or drawbacks of each of these exemplary list patterns in Figs. 10A, 10B and 11 of that reference". It is sufficient that Murayama '506 does teach the limitations of the claims and that sufficient motivation for combining Murayama '506 with Nakamura is taught by Murayama '506. Again, the precise purpose behind the point symmetric gradation patterns taught by Murayama does not need to be the same as the purpose taught in Applicant's disclosure.

**Regarding page 10, line 17 to page 12, line 17:** The full recitation of the "smoothing process" recited in claim 1 is taught by combination, not by a single reference. Page 4, lines 10-25 of said previous office action demonstrates the smoothing process taught by Nakamura and page 5, line to page 6, line of said previous office action demonstrates the relevant teachings from Murayama '662 (US Patent 5,136,662) and how Murayama '662 is combined with Nakamura in view of Murayama '506, along with the associated motivation to combine. Applicant is respectfully reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura (US Patent 5,889,928) in view of Murayama '506 (US Patent 5,978,506) and Maruyama '662 (US Patent 5,136,662).

Regarding claims 1, 17 and 20: Nakamura discloses an image forming apparatus (figure 2 of Nakamura) comprising reading means (figure 2(1) of Nakamura) for reading an image and generating image data (column 8, lines 12-15 of Nakamura); creation means (figure 2(70) of Nakamura) for creating a correction table for correcting the density characteristics of the image data (figure 3; column 8, lines 66-67 and column 9, lines 3-6 of Nakamura); correction means (figure 2(64) of Nakamura) for correcting the density characteristics of the image data from said reading means (column 9, lines 18-22 of Nakamura), based on the correction table created by said creation means (figure 4 (S1-S3) and column 9, lines 41-44 of Nakamura); and output means (figure 1(2) of Nakamura) for outputting an image based on the image data corrected by said correction means (column 9, lines 18-22 of Nakamura), wherein said creation means creates the correction table for correcting the image data read by the reading means (column 13, lines 45-50

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of Nakamura) by applying a smoothing process using adjacent data whose number is determined by a range of smoothing (figure 7 (S86) and column 13, lines 41-44 of Nakamura), based on a train of data generated by said reading means by reading a gradient pattern outputted by said output means (column 12, lines 44-45 and column 10, line 63 to column 11, line 2 of Nakamura).

Alleviating a sudden change in gradation or a gradation jump (figure 7(S86) and column 13, lines 41-44 of Nakamura) is one type of smoothing operation. Basing said smoothing on a range of smoothing is inherent since a sudden change in gradation or a gradation jump cannot be detected with a single data point. A certain range of data points is required to detect a sudden change or jump. Further, the input image data can be considered a "train" of data since said data is read in sequentially in a scanner.

Nakamura does not disclose expressly that said reading means reads plural gradient patterns, wherein said plural gradient patterns are disposed in point symmetry with respect to a center position of the image; and that the smoothing process which is performed to create the correction table uses some pieces of data whose number changes depending on the position of data in the generated train of data.

Murayama '506 discloses reading plural gradient patterns (figure 11 and column 9, lines 12-18 of Murayama '506), wherein said plural gradient patterns are disposed in point symmetry with respect to a center position of the image (figure 11 and column 9, lines 15-18 of Murayama '506). As can clearly be seen in figure 11 of Murayama '506, the four gradation patterns (figure 11(310,320,330, 340) of Murayama '506) are arranged in

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point symmetry with respect to the center position of the image (figure 11(300) of Murayama '506).

Nakamura and Murayama '506 are combinable because they are from the same field of endeavor, namely color and gradation correction in image processing and reproduction systems. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use multiple gradient patterns arranged symmetrically about the center of the image, as taught by Murayama '506. The motivation for doing so would have been to be able to correct the color and gradation for multiple sets of dithering patterns (column 9, lines 1-7 of Murayama '506), thus providing a broader and more complete correction process. Therefore, it would have been obvious to combine Murayama '506 with Nakamura.

Nakamura in view of Murayama '506 does not disclose expressly that the smoothing process which is performed to create said correction table uses some pieces of data whose number changes depending on the position of data in the generated train of data.

Maruyama '662 discloses processing a train of image data (figure 9 and column 16, lines 12-16 of Maruyama '662 of Maruyama '662) using some pieces of data whose number changes depending on the position of data in the generated train of data (figure 15 and column 20, line 64 to column 21, line 4 of Maruyama '662).

Nakamura in view of Murayama '506 is combinable with Maruyama '662 because they are from the same field of endeavor, namely image data processing and correction. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to create said correction table, as taught by

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Nakamura in view of Murayama '506, using a pieces of a train of image data whose number changes depending on the position of the generated data, as taught by Maruyama '662. The motivation for doing so would have been that different regions of the image data have different properties, and therefore must be processed accordingly (column 21, lines 2-11 of Maruyama '662).

Therefore, it would have been obvious to combine Maruyama '662 with Nakamura in view of Murayama '506 to obtain the invention as specified in claims 1, 17 and 20.

**Regarding claims 2, 18 and 21:** Nakamura discloses that the gradient pattern (figure 3 of Nakamura) is composed of a plurality of density patches (figure 3(TP1-TP16); column 8, lines 66-67 and column 9, lines 3-6 of Nakamura).

**Regarding claims 3, 19 and 22:** Nakamura discloses that said creation means determines the train of data (figure 5a and column 9, lines 65-67 of Nakamura) based on an average value of the plural brightness data obtained by the gradient pattern (column 10, lines 1-5 of Nakamura) and applies an interpolating process (column 10, lines 63-66 of Nakamura) and the smoothing process to the train of data (column 10, line 66 to column 11, line 2 of Nakamura), thereby to create the correction table (column 11, lines 2-3 of Nakamura).

Nakamura does not disclose expressly that said average value is obtained by the plural gradient patterns.

Murayama '506 discloses reading plural gradient patterns (figure 11 and column 9, lines 12-18 of Murayama '506) and obtaining color correction data based on said plural gradient patterns (column 9, lines 1-7 of Murayama '506).

Nakamura and Murayama '506 are combinable because they are from the same field of endeavor, namely color and gradation



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correction in image processing and reproduction systems. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use the gradation data read from the plural gradient patterns, as taught by Murayama '506, and compute for each density value an average for all of the pixels of the density patches representing the same density value, as taught by Nakamura, in the plural gradient patterns taught by Murayama '506. The motivation for doing so would have been to eliminate the influence of depth or density variations of the pixels (column 10, lines 4-5 of Nakamura). Therefore, it would have been obvious to combine Murayama '506 with Nakamura to obtain the invention as specified in claims 3, 19 and 22.

#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



25 November 2005

James A. Thompson  
Examiner  
Art Unit 2624



THOMAS D. LEE